

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  UTILICORP UNITED, INC., n/k/a AQUILA, INC., d/b/a AQUILA NETWORKS	DOCKET NO. P-845
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**PROPOSED DECISION AND ORDER GRANTING PERMIT**

(Issued May 17, 2002)

**APPEARANCES:**

MS. MEGAN SEBASTIAN WRIGHT and MR. DOUGLAS J. LAW, Attorneys at Law, Blackwell Sanders Peper Martin, LLP, 13710 FNB Parkway, Suite 200, P.O. Box 542090, Omaha, NE 68154-8090, and MR. PHILIP E. STOFFREGEN, Dickinson, Mackaman, Tyler & Hagen, P.C., 1600 Hub Tower, 699 Walnut Street, Des Moines, IA 50309-3986, appearing on behalf of UtiliCorp United, Inc., n/k/a Aquila, Inc., d/b/a Aquila Networks.

MR. CRAIG GRAZIANO, Attorney at Law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Iowa Department of Justice, Office of Consumer Advocate.

**STATEMENT OF THE CASE**

On November 26, 2001, UtiliCorp United, Inc., n/k/a Aquila, Inc., d/b/a Aquila Networks (Aquila) filed a petition for a permit to construct, operate, and maintain an approximately 1.8 mile 6-inch diameter steel pipeline for the transportation of natural gas in Greene, Carroll, and Guthrie Counties, Iowa. (petition for permit; testimony of Mr. McGrew; Helm report) Aquila amended its petition on April 2 and April 15, 2002. (petition for permit) Aquila filed a land restoration plan with its petition, and amended

the plan on April 15, 2002. (land restoration plan; testimony of Mr. McGrew) The proposed pipeline will provide natural gas service to the Tall Corn Ethanol plant in Guthrie County, Iowa. (petition for permit; Helm report; testimony of Mr. McGrew)

On March 25, 2002, the Utilities Board (Board) assigned this case to a presiding officer. A procedural schedule was established by an order issued on March 25, 2002. In that order, the undersigned presiding officer set May 16, 2002, as the date for the hearing on the petition and proposed to take official notice of a January 7, 2002, report concerning the pipeline prepared by Mr. Reed Helm, a utility regulatory inspector for the Utilities Division's Safety and Engineering Section.

Aquila filed prepared direct testimony of Mr. Douglas B. McGrew on April 15, 2002.

Ms. Sebastian Wright and Mr. Law each filed a motion for admission pro hac vice on May 15, 2002. Mr. Philip E. Stoffregen filed an appearance on May 15, 2002.

The hearing was held on May 16, 2002 by telephone conference call. Mr. McGrew, engineer for Aquila, testified on behalf of Aquila. (testimony of Mr. McGrew) Mr. Reed Helm and Mr. Don Stursma testified on behalf of the Board. The motions for admission filed by Ms. Sebastian Wright and Mr. Law were granted at the hearing.

### **FINDINGS OF FACT**

1. Aquila is a pipeline company within the meaning of Iowa Code § 479.2 (2001). (testimony of Mr. McGrew)

2. On November 26, 2001, UtiliCorp United, Inc., n/k/a Aquila, Inc., d/b/a Aquila Networks (Aquila) filed a petition for a permit to construct, operate, and maintain approximately 1.8 miles of 6-inch diameter steel pipeline for the transportation of natural gas in Greene, Carroll, and Guthrie Counties, Iowa. (petition for permit; testimony of Mr. McGrew; Helm report) Aquila amended its petition on April 2 and April 15, 2002. (petition for permit) Aquila filed a land restoration plan with its petition, and amended the plan on April 15, 2002. (land restoration plan; testimony of Mr. McGrew) The proposed pipeline will have a maximum allowable operating pressure of 275 psig. (petition for permit; Helm report)

3. The proposed pipeline will follow a route described in Exhibit A and shown on Exhibit B attached to the petition for a permit (as amended). (petition Exhibits A and B) It will begin at a point of the proposed metering facilities on the existing Northern Natural Gas Company 6-inch pipeline in Greene County, Iowa, continue in a southwesterly and then westerly direction, and terminate at the Tall Corn Ethanol plant property in Guthrie County, Iowa. (petition for permit; Helm report; testimony of Mr. McGrew) The proposed pipeline will provide natural gas service to the Tall Corn Ethanol plant. (petition for permit; Helm report; testimony of Mr. McGrew)

4. Aquila caused notice of the hearing to be published in Guthrie County in The News Gazette, a newspaper of general circulation in the county, on April 25 and May 2, 2002. (affidavit of publication) Aquila caused notice of the hearing to be published in Greene County in the Jefferson Herald, a newspaper of general circulation in the county, on April 25 and May 2, 2002. (affidavit of publication) Aquila caused notice of the hearing to be published in Carroll County in the Times Herald, a newspaper of general circulation in the county, on April 25 and May 2, 2002. (affidavit of publication) Aquila filed proof of payment of the costs of publication of these notices as required by Iowa Code § 479.13 and 199 IAC § 10.4. (affidavit of publication)

5. This pipeline is necessary to provide natural gas service to the Tall Corn Ethanol plant in Guthrie County, Iowa. (petition for permit; Helm report; testimony of Mr. McGrew) The Tall Corn Ethanol plant will bring additional business to Aquila's system, and new business and jobs to the State of Iowa. (testimony of Mr. McGrew) Therefore, the service promotes the public convenience and necessity as required by Iowa Code § 479.12. (petition for permit; Helm report; testimony of Mr. McGrew)

6. The pipeline complies with the design, construction, and safety requirements of Iowa Code Chapter 479, 199 IAC § 10.12, and 49 C.F.R. Part 192. (petition for permit; testimony of Mr. McGrew and Mr. Stursma) No further safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; testimony of Mr. McGrew and Mr. Stursma)

7. The location and route of the proposed pipeline are reasonable and no further terms, conditions, or restrictions regarding them need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; Helm report; testimony of Mr. McGrew)

8. Aquila has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000, as required by Iowa Code § 479.26 and 199 IAC § 10.2(1)(d). (testimony of Mr. McGrew; petition exhibit D)

9. No written objections to the petition for a permit were filed and no objectors appeared at the hearing. (testimony of Mr. Stursma; Docket P-845 file)

10. Aquila has obtained the only easement it needed for the proposed pipeline. (petition for permit)

11. Aquila filed a land restoration plan that adequately addresses all land restoration issues contained in Iowa Code §479.29 and 199 IAC Chapter 9. (land restoration plan; testimony of Mr. McGrew and Mr. Stursma)

### **CONCLUSIONS OF LAW**

1. The Board has the authority to grant, amend, and renew permits for the construction, operation, and maintenance of pipelines for the intrastate transportation of natural gas. Iowa Code §§ 479.1, 479.4, 479.12, 479.18, and 479.29; 199 IAC Chapters 9 and 10.

2. The Board has jurisdiction over Aquila and over the petition for a natural gas pipeline permit it has filed. Iowa Code §§ 479.2, 479.5, 479.6, 479.12, 479.18, and 479.29.

3. The petition of Aquila for issuance of a permit for the natural gas pipeline in Docket No. P-845 should be granted. Iowa Code §§ 479.11, 479.12, 479.26, and 479.29; 199 IAC Chapters 9 and 10.

**IT IS THEREFORE ORDERED:**

1. Official notice is taken of the report dated January 7, 2002, filed in this docket by Mr. Reed Helm, utility regulatory inspector for the Board.

2. Pursuant to Iowa Code Chapter 479, the petition for a pipeline permit filed by Aquila in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. Aquila must comply with the land restoration plan it filed with the petition (as amended) and the provisions of Iowa Code § 479.29 and 199 IAC Chapter 9.

4. Aquila must provide timely notice to the Utilities Division before beginning construction of the pipeline, and must also file weekly progress reports during construction of the pipeline with the Utilities Division.

5. After Aquila completes construction of the new pipeline, it must file a construction completion report with the Utilities Division. This report must include information regarding any unusual construction problems or occurrences, and a copy of the pressure test procedures used and the results obtained.

6. Within 180 days after completion of the construction of the new pipeline, Aquila must file a map that accurately shows the location of the pipeline

route as constructed. The map will be a part of the record in this case, and will represent the final route as authorized by the permit.

7. The Board retains jurisdiction of the subject matter in this docket.

8. Ordinarily, this proposed decision would become the final decision of the Board unless appealed to the Board within 15 days of its issuance. Iowa Code § 17A.15(3); 199 IAC § 7.8(2). However, under appropriate circumstances, it is possible to reduce the time for appeal. Iowa Code §17A.15(3); 199 IAC 1.3, 7.8(2). Aquila has requested expedited treatment of this case so it can proceed with construction. No objections to this petition were filed. The Consumer Advocate Division of the Department of Justice does not object to a reduced appeal period. There are no unresolved issues that indicate a need for the 15-day appeal period. **Therefore, this proposed decision will become the final decision of the Board unless appealed to the Board within five (5) days of its issuance.**

**UTILITIES BOARD**

/s/ Amy L. Christensen  
Amy L. Christensen  
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

Dated at Des Moines, Iowa, this 17<sup>th</sup> day of May, 2002.